

CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

5/27/10  
Date

Honorable Dan Patrick  
President of the Senate

Honorable Joe Straus  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on SB 1148 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

[Signature]  
Buckingham

Van Taylor  
Taylor

J. J. Hing  
Hing

[Signature]  
Schwerner

[Signature]  
Campbell  
On the part of the Senate

Greg Bonnen  
Greg Bonnen

[Signature]  
FOUR PRICE

[Signature]  
Tom Oliver

John FERNAS  
JOHN FERNAS

On the part of the House

**Note to Conference Committee Clerk:**  
Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.



# CONFERENCE COMMITTEE REPORT

3<sup>rd</sup> Printing

S.B. No. 1148

A BILL TO BE ENTITLED

1 AN ACT

2 relating to maintenance of certification by a physician or an  
3 applicant for a license to practice medicine in this state.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Subtitle F, Title 8, Insurance Code, is amended  
6 by adding Chapter 1461 to read as follows:

7 CHAPTER 1461. DISCRIMINATION AGAINST PHYSICIAN BASED ON  
8 MAINTENANCE OF CERTIFICATION

9 Sec. 1461.001. DEFINITIONS. In this chapter:

10 (1) "Enrollee" means an individual who is eligible to  
11 receive health care services under a managed care plan.

12 (2) "Maintenance of certification" has the meaning  
13 assigned by Section 151.002, Occupations Code.

14 (3) "Managed care plan" means a health benefit plan  
15 under which health care services are provided to enrollees through  
16 contracts with physicians and that requires enrollees to use  
17 participating physicians or that provides a different level of  
18 coverage for enrollees who use participating physicians. The term  
19 includes a health benefit plan issued by:

20 (A) a health maintenance organization;

21 (B) a preferred provider benefit plan issuer; or

22 (C) any other entity that issues a health benefit  
23 plan, including an insurance company.

24 (4) "Participating physician" means a physician who

has directly or indirectly contracted with a health benefit plan issuer to provide services to enrollees.

(5) "Physician" means an individual licensed to practice medicine in this state.

Sec. 1461.002. APPLICABILITY. (a) This chapter applies to a physician regardless of whether the physician is a participating physician.

(b) This chapter applies to a person with whom a managed care plan issuer contracts to:

- (1) process or pay claims;
- (2) obtain the services of physicians to provide health care services to enrollees; or
- (3) issue verifications or preauthorizations.

Sec. 1461.003. DISCRIMINATION BASED ON MAINTENANCE OF CERTIFICATION. (a) Except as provided by Subsection (b), a managed care plan issuer may not differentiate between physicians based on a physician's maintenance of certification in regard to:

- (1) paying the physician;
- (2) reimbursing the physician; or
- (3) directly or indirectly contracting with the physician to provide services to enrollees.

(b) A managed care plan issuer may differentiate between physicians based on a physician's maintenance of certification only if the designation under law or certification or accreditation by a national certifying or accrediting organization of an entity described by Section 151.0515(a), Occupations Code, is contingent on the entity requiring a specific maintenance of certification by

1 physicians seeking staff privileges or credentialing at the entity.

2 SECTION 2. Section 151.002(a), Occupations Code, is amended  
3 by adding Subdivision (6-b) to read as follows:

4 (6-b) "Maintenance of certification" means the  
5 satisfactory completion of periodic recertification requirements  
6 that are required for a physician to maintain certification after  
7 initial certification from:

8 (A) a medical specialty member board of the  
9 American Board of Medical Specialties;

10 (B) a medical specialty member board of the  
11 American Osteopathic Association Bureau of Osteopathic  
12 Specialists;

13 (C) the American Board of Oral and Maxillofacial  
14 Surgery; or

15 (D) any other certifying board that is recognized  
16 by the Texas Medical Board.

17 SECTION 3. Subchapter B, Chapter 151, Occupations Code, is  
18 amended by adding Section 151.0515 to read as follows:

19 Sec. 151.0515. DISCRIMINATION BASED ON MAINTENANCE OF  
20 CERTIFICATION. (a) Except as otherwise provided by this section,  
21 the following entities may not differentiate between physicians  
22 based on a physician's maintenance of certification:

23 (1) a health facility that is licensed under Subtitle  
24 B, Title 4, Health and Safety Code, or a mental hospital that is  
25 licensed under Chapter 577, Health and Safety Code, if the facility  
26 or hospital has an organized medical staff or a process for  
27 credentialing physicians;

1           (2) a hospital that is owned or operated by this state;

2           (3) an institution or program that is owned, operated,

3 or licensed by this state, including an institution or program that

4 directly or indirectly receives state financial assistance, if the

5 institution or program:

6                   (A) has an organized medical staff or a process

7 for credentialing physicians on its staff; and

8                   (B) is not a medical school, as defined by

9 Section 61.501, Education Code, or a comprehensive cancer center,

10 as designated by the National Cancer Institute; or

11           (4) an institution or program that is owned, operated,

12 or licensed by a political subdivision of this state, if the

13 institution or program has an organized medical staff or a process

14 for credentialing physicians on its staff.

15           (b) An entity described by Subsection (a) may differentiate

16 between physicians based on a physician's maintenance of

17 certification if:

18                   (1) the entity's designation under law or

19 certification or accreditation by a national certifying or

20 accrediting organization is contingent on the entity requiring a

21 specific maintenance of certification by physicians seeking staff

22 privileges or credentialing at the entity; and

23                   (2) the differentiation is limited to those physicians

24 whose maintenance of certification is required for the entity's

25 designation, certification, or accreditation as described by

26 Subdivision (1).

27           (c) An entity described by Subsection (a) may differentiate

1 between physicians based on a physician's maintenance of  
2 certification if the voting physician members of the entity's  
3 organized medical staff vote to authorize the differentiation.

4 (d) An authorization described by Subsection (c) may:

5 (1) be made only by the voting physician members of the  
6 entity's organized medical staff and not by the entity's governing  
7 body, administration, or any other person;

8 (2) subject to Subsection (e), establish terms  
9 applicable to the entity's differentiation, including:

10 (A) appropriate grandfathering provisions; and

11 (B) limiting the differentiation to certain  
12 medical specialties; and

13 (3) be rescinded at any time by a vote of the voting  
14 physician members of the entity's organized medical staff.

15 (e) Terms established under Subsection (d)(2) may not  
16 conflict with a maintenance of certification requirement  
17 applicable to the entity's designation under law or certification  
18 or accreditation by a national certifying or accrediting  
19 organization.

20 SECTION 4. Section 155.003, Occupations Code, is amended by  
21 amending Subsection (d) and adding Subsection (d-1) to read as  
22 follows:

23 (d) Except as provided by Subsection (d-1), in [In] addition  
24 to the other requirements prescribed by this subtitle, the board  
25 may require an applicant to comply with other requirements that the  
26 board considers appropriate.

27 (d-1) The board may not require maintenance of

1 certification by an applicant for the applicant to be eligible for a  
2 license under this chapter.

3 SECTION 5. Section 156.001, Occupations Code, is amended by  
4 adding Subsection (f) to read as follows:

5 (f) The board may not adopt a rule requiring maintenance of  
6 certification by a license holder for the license holder to be  
7 eligible for an initial or renewal registration permit.

8 SECTION 6. This Act takes effect January 1, 2018.



**Senate Bill 1148**  
Conference Committee Report  
Section-by-Section Analysis

SENATE VERSION

SECTION 1. Subtitle F, Title 8, Insurance Code, is amended by adding Chapter 1461 to read as follows:

CHAPTER 1461. DISCRIMINATION AGAINST PHYSICIAN BASED ON MAINTENANCE OF CERTIFICATION

Sec. 1461.001. DEFINITIONS. In this chapter:

(1) "Enrollee" means an individual who is eligible to receive health care services under a managed care plan.

(2) "Maintenance of certification" has the meaning assigned by Section 151.002, Occupations Code.

(3) "Managed care plan" means a health benefit plan under which **medical** care services are provided to enrollees through contracts with physicians and that requires enrollees to use participating physicians or that provides a different level of coverage for enrollees who use participating physicians. The term includes a health benefit plan issued by:

(A) a health maintenance organization;

(B) a preferred provider benefit plan issuer; or

(C) any other entity that issues a health benefit plan, including an insurance company.

(4) "Participating physician" means a physician who has directly or indirectly contracted with a health benefit plan issuer to provide services to enrollees.

(5) "Physician" means **a person** licensed to practice medicine in this state.

Sec. 1461.002. APPLICABILITY. (a) This chapter applies to a physician regardless of whether the physician is a participating physician.

(b) This chapter applies to a person **to** whom a managed care plan issuer contracts to:

(1) process or pay claims;

(2) obtain the services of physicians to provide **medical** care

HOUSE VERSION (IE)

SECTION 1. Subtitle F, Title 8, Insurance Code, is amended by adding Chapter 1461 to read as follows:

CHAPTER 1461. DISCRIMINATION AGAINST PHYSICIAN BASED ON MAINTENANCE OF CERTIFICATION

Sec. 1461.001. DEFINITIONS. In this chapter:

(1) "Enrollee" means an individual who is eligible to receive health care services under a managed care plan.

(2) "Maintenance of certification" has the meaning assigned by Section 151.002, Occupations Code.

(3) "Managed care plan" means a health benefit plan under which **health** care services are provided to enrollees through contracts with physicians and that requires enrollees to use participating physicians or that provides a different level of coverage for enrollees who use participating physicians. The term includes a health benefit plan issued by:

(A) a health maintenance organization;

(B) a preferred provider benefit plan issuer; or

(C) any other entity that issues a health benefit plan, including an insurance company.

(4) "Participating physician" means a physician who has directly or indirectly contracted with a health benefit plan issuer to provide services to enrollees.

(5) "Physician" means **an individual** licensed to practice medicine in this state.

Sec. 1461.002. APPLICABILITY. (a) This chapter applies to a physician regardless of whether the physician is a participating physician.

(b) This chapter applies to a person **with** whom a managed care plan issuer contracts to:

(1) process or pay claims;

(2) obtain the services of physicians to provide **health** care

CONFERENCE

SECTION 1. Same as House version.

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SENATE VERSION

services to enrollees; or  
(3) issue verifications or preauthorizations.  
Sec. 1461.003. DISCRIMINATION BASED ON  
MAINTENANCE OF CERTIFICATION. (a) Except as  
provided by Subsection (b), a managed care plan issuer may  
not differentiate between physicians based on a physician's  
maintenance of certification in regard to:  
(1) paying the physician;  
(2) reimbursing the physician; or  
(3) directly or indirectly contracting with the physician to  
provide services to enrollees.  
(b) A managed care plan issuer may differentiate between  
physicians based on a physician's maintenance of certification  
only:  
(1) if the entity that administers the physician's  
maintenance of certification is certified under Chapter 170,  
Occupations Code; and  
(2) after the issuer considers the physician's:  
(A) training;  
(B) experience;  
(C) competence; and  
(D) judgment.  
(c) A managed care plan issuer may not differentiate  
between physicians based on the entity that administers a  
physician's maintenance of certification.

SECTION 2. Section 151.002(a), Occupations Code, is amended.

SECTION 3. Subchapter A, Chapter 151, Occupations Code, is amended by adding Section 151.006 to read as follows:  
Sec. 151.006. CERTIFICATION OF MEDICAL

HOUSE VERSION (IE)

services to enrollees; or  
(3) issue verifications or preauthorizations.  
Sec. 1461.003. DISCRIMINATION BASED ON  
MAINTENANCE OF CERTIFICATION. (a) Except as  
provided by Subsection (b), a managed care plan issuer may  
not differentiate between physicians based on a physician's  
maintenance of certification in regard to:  
(1) paying the physician;  
(2) reimbursing the physician; or  
(3) directly or indirectly contracting with the physician to  
provide services to enrollees.  
(b) A managed care plan issuer may differentiate between  
physicians based on a physician's maintenance of certification  
only if the designation under law or certification or  
accreditation by a national certifying or accrediting  
organization of an entity described by Section 151.0515(a),  
Occupations Code, is contingent on the entity requiring a  
specific maintenance of certification by physicians seeking  
staff privileges or credentialing at the entity.

SECTION 2. Same as Senate version.

*No equivalent provision.*

CONFERENCE

SECTION 2. Same as Senate version.

Same as House version.

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SPECIALTY. (a) Notwithstanding any law other than Subsection (b), a physician is considered a board-certified medical specialist in this state if the physician receives initial certification, regardless of the physician's maintenance of certification, from:  
(1) a medical specialty member board of the American Board of Medical Specialties;  
(2) a medical specialty member board of the American Osteopathic Association Bureau of Osteopathic Specialists;  
(3) the American Board of Oral and Maxillofacial Surgery; or  
(4) any other certifying board that is recognized by the Texas Medical Board.  
(b) Subsection (a) does not apply to a physician:  
(1) who holds a medical license that is currently restricted or suspended for cause or has been canceled for cause or revoked by any state, a province of Canada, or a uniformed service of the United States;  
(2) who is under an investigation or against whom a proceeding is instituted that may result in a restriction, cancellation, suspension, or revocation of the physician's medical license in any state, a province of Canada, or a uniformed service of the United States; or  
(3) who has a prosecution that is pending against the physician in any state, federal, or Canadian court for any offense that under the laws of this state is a misdemeanor involving moral turpitude or a felony.

*No equivalent provision.*

Same as Senate version. SECTION 3. Section 151.0515, Occupations Code. [Deleted by FA1]  
Section 151.057, Occupations Code. [Deleted by FA2(1)]

Same as Senate version.

SECTION 4. Subchapter B, Chapter 151, Occupations Code,

*No equivalent provision.*

SECTION 3. Subchapter B, Chapter 151, Occupations Code,

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SENATE VERSION

is amended by adding Section 151.0515 to read as follows:

Sec. 151.0515. DISCRIMINATION BASED ON MAINTENANCE OF CERTIFICATION. (a) Except as provided by *Subsection (b)*, the following entities may not differentiate between physicians based on a physician's maintenance of certification:

(1) a health facility that is licensed under Subtitle B, Title 4, Health and Safety Code, if the facility has an organized medical staff or a process for credentialing physicians;

(2) a hospital that is owned or operated by this state;

(3) an institution or program that is owned, operated, or licensed by this state, including an institution or program that directly or indirectly receives state financial assistance, if the institution or program has an organized medical staff or a process for credentialing physicians on its staff; or

(4) an institution or program that is owned, operated, or licensed by a political subdivision of this state, if the institution or program has an organized medical staff or a process for credentialing physicians on its staff.

(b) An entity described by Subsection (a) may differentiate between physicians based on a physician's maintenance of certification *only*:

(1) if the entity *that administers the physician's* maintenance of certification *is certified under Chapter 170*; and

(2) after the entity *considers the physician's*:

(A) *training*;

HOUSE VERSION (IE)

CONFERENCE

is amended by adding Section 151.0515 to read as follows:

Sec. 151.0515. DISCRIMINATION BASED ON MAINTENANCE OF CERTIFICATION. (a) Except as *otherwise* provided by *this section*, the following entities may not differentiate between physicians based on a physician's maintenance of certification:

(1) a health facility that is licensed under Subtitle B, Title 4, Health and Safety Code, *or a mental hospital that is licensed under Chapter 577, Health and Safety Code*, if the facility *or hospital* has an organized medical staff or a process for credentialing physicians;

(2) a hospital that is owned or operated by this state;

(3) an institution or program that is owned, operated, or licensed by this state, including an institution or program that directly or indirectly receives state financial assistance, if the institution or program:

(A) has an organized medical staff or a process for credentialing physicians on its staff; *and*

(B) *is not a medical school, as defined by Section 61.501, Education Code, or a comprehensive cancer center, as designated by the National Cancer Institute*; or

(4) an institution or program that is owned, operated, or licensed by a political subdivision of this state, if the institution or program has an organized medical staff or a process for credentialing physicians on its staff.

(b) An entity described by Subsection (a) may differentiate between physicians based on a physician's maintenance of certification *if*:

(1) the entity's *designation under law or certification or accreditation by a national certifying or accrediting organization is contingent on the entity requiring a specific maintenance of certification by physicians seeking staff*

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(B) experience;  
(C) competence; and  
(D) judgment.

(c) An entity described by Subsection (a) *may not* differentiate between physicians based on the entity that administers a physician's maintenance of certification.

(d) A state agency, including the Health and Human Services Commission and the Department of State Health Services, may not require an entity described by Subsection (a) to require maintenance of certification by a physician.

*No equivalent provision.*

SECTION \_\_. Creates a joint interim committee to study and assess maintenance of certification of physicians in Texas.

privileges or credentialing at the entity; and  
(2) the differentiation is limited to those physicians whose maintenance of certification is required for the entity's designation, certification, or accreditation as described by Subdivision (1).  
(c) An entity described by Subsection (a) *may* differentiate between physicians based on a physician's maintenance of certification if the voting physician members of the entity's organized medical staff vote to authorize the differentiation.

(d) An authorization described by Subsection (c) may:  
(1) be made only by the voting physician members of the entity's organized medical staff and not by the entity's governing body, administration, or any other person;  
(2) subject to Subsection (e), establish terms applicable to the entity's differentiation, including:  
(A) appropriate grandfathering provisions; and  
(B) limiting the differentiation to certain medical specialties; and  
(3) be rescinded at any time by a vote of the voting physician members of the entity's organized medical staff.  
(e) Terms established under Subsection (d)(2) may not conflict with a maintenance of certification requirement applicable to the entity's designation under law or certification or accreditation by a national certifying or accrediting organization.

Same as Senate version.

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	[FA2(1)]	
<i>No equivalent provision.</i>	SECTION __. Provisions regarding the joint interim committee created by SECTION 4. [FA2(1)]	Same as Senate version.
SECTIONS 5-6. Sections 155.003 and 156.001, Occupations Code, are amended	SECTIONS 4-5. Same as Senate version.	SECTIONS 4-5. Same as Senate version.
SECTION 7. Subtitle B, Title 3, Occupations Code, is amended by adding Chapter 170 regarding entity certification to provide maintenance of certification.	<i>No equivalent provision.</i>	Same as House version.
SECTION 8. The Texas Medical Board shall adopt rules to implement Chapter 170, Occupations Code, as added by this Act, not later than September 1, 2018.	<i>No equivalent provision.</i>	Same as House version.
<i>No equivalent provision.</i>	Same as Senate version. SECTION 6. [Deleted by FA2(2)]	Same as Senate version.
SECTION 9. This Act takes effect January 1, 2018.	SECTION 7. Same as Senate version.	SECTION 6. Same as Senate version.

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION**

**May 27, 2017**

**TO:** Honorable Dan Patrick, Lieutenant Governor, Senate  
Honorable Joe Straus, Speaker of the House, House of Representatives

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: SB1148** by Buckingham (Relating to maintenance of certification by a physician or an applicant for a license to practice medicine in this state.), **Conference Committee Report**

<b>No significant fiscal implication to the State is anticipated.</b>
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The bill would amend the Occupations Code and the Insurance Code relating to maintenance of certification by a physician or an applicant for a license to practice medicine in this state. The bill would prohibit certain hospitals, institutions, programs, or managed care plan issuer from differentiating between physicians based solely on a physician's maintenance of certificate. The bill would prohibit the Texas Medical Board (TMB) from requiring maintenance of certificate or adopting a rule that would require maintenance of certificate.

The TMB, The University of Texas System Administration, Texas A&M University System Administrative and General Offices, Department of Insurance, Health and Human Services Commission, and Department of State Health Services anticipate any additional work resulting from the passage of the bill could be reasonably absorbed within current resources.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 454 Department of Insurance, 503 Texas Medical Board, 529 Health and Human Services Commission, 537 State Health Services, Department of, 710 Texas A&M University System Administrative and General Offices, 720 The University of Texas System Administration

**LBB Staff:** UP, KCA, CL, EH, EK, TBo

**Certification of Compliance with**  
**Rule 13, Section 6(b), House Rules of Procedure**

Rule 13, Section 6(b), House Rules of Procedure, requires a copy of a conference committee report signed by a majority of each committee of the conference to be furnished to each member of the committee in person or, if unable to deliver in person, by placing a copy in the member's newspaper mailbox at least one hour before the report is furnished to each member of the house under Rule 13, Section 10(a). The paper copies of the report submitted to the chief clerk under Rule 13, Section 10(b), must contain a certificate that the requirement of Rule 13, Section 6(b), has been satisfied, and that certificate must be attached to the copy of the report furnished to each member under Rule 13, Section 10(d). Failure to comply with this requirement is not a sustainable point of order under Rule 13.

I certify that a copy of the conference committee report on SB 1148 was furnished to each member of the conference committee in compliance with Rule 13, Section 6(b), House Rules of Procedure, before submission of the paper copies of the report to the chief clerk under Rule 13, Section 10(b), House Rules of Procedure.

Greg Bonner, MD  
(name) Greg Bonner

5.27.17  
(date)

17R337(3)